

Message Text

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC IMMEDIATE 3076

C O N F I D E N T I A L BRASILIA 10928

LIMDIS

DEPT PASS TREASURY FOR SECRETARY SIMON

E. O. 11652: GDS

TAGS: ETRD, EFIN, BR

SUBJECT: LETTER FROM SECRETARY SIMON - COUNTERVAILING DUTY
INVESTIGATION

REFS: A. STATE 299086 B. RIO DE JANEIRO 4144

C. BRASILIA 10707

1. AMBASSADOR CALLED ON MINISTER SIMONSEN MONDAY
DECEMBER 22 TO PRESENT TEXT OF SECRETARY
SIMON'S LETTER. AMBASSADOR ALSO PRESENTED COMMENTARY
CONCERNING LETTER WHICH SET FORTH CONTENTS PARAGRAPHS
2-5 REFTEL A. SIMONSEN WAS ACCOMPANIED BY FRANCISCO
DORNELLES AND AN AIDE TO ARY PINTO, JOSE CARLOS DE
OLIVEIRA. ON U.S. SIDE, THE EMBASSY'S ECON-COML
COUNSELOR PARTICIPATED IN THE MEETING.

2. SIMONSEN, VISIBLY IRRITATED AS HE FINISHED
SECRETARY SIMON'S LETTER, SAID HE FOUND THE LETTER
ENTIRELY PREMATURE AND BASED ON AN INCOMPLETE READING
OF THE PERTINENT PROVISIONS OF THE REGULATIONS. HE
POINTED OUT THAT DECREE-LAW 1426 VERY CLEARLY
SPECIFIED THAT A PROTOCOL CONCERNING USE OF ICM CREDITS
WAS NEEDED BETWEEN THE FINANCE MINISTRY AND THE
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FINANCIAL AUTHORITIES OF EACH STATE, WHICH WOULD

SPECIFY THE PRODUCTS TO BE COVERED AND THE TERMS FOR THE UTILIZATION OF THE CREDITS, BEFORE THE BENEFITS COULD BE IMPLEMENTED. NO SUCH PROTOCOL HAD AS YET BEEN CONCLUDED, AND NONE WAS IN FACT IN PROSPECT, AT LEAST FOR THE TIME BEING, WITH ANY OF THE SOUTHERN STATES. THE PRINCIPAL BENEFICIARIES WERE INTENDED TO BE CERTAIN INDUSTRIES IN THE NORTHEAST, WITH PRODUCTS OTHER THAN THOSE INVOLVED IN THE COUNTER-VAILING DUTY CASES. WIDE APPLICATION TO PARTICULAR PRODUCTS IN THE SOUTH NOT ONLY WAS NOT ENVISAGED AT THIS TIME BUT WOULD BE SEVERELY INHIBITED, IF NOT PRECLUDED BY THE RESULTING SIGNIFICANT LOSS IN REVENUES (I.S. FEDERAL CREDITS ON WHAT IS IN FACT A STATE TAX).

3. WITH RESPECT TO POSSIBLE RETROACTIVITY OF THE BENEFITS, SIMONSEN STRESSED THAT THE LAW WAS FORWARD LOOKING, AND AGAIN NOTED THAT A SEPARATE PROTOCOL WAS NEEDED FOR EACH STATE IN WHICH THERE WERE PARTICULAR INDUSTRIES TO BE BENEFITTED FROM THE PROGRAM. HE DISMISSED THE POSSIBILITY OF GENERAL AND SUBSTANTIAL RETROACTIVITY ALTHOUGH HE DID NOT EXCLUDE ITS SELECTIVE USE AS A MEANS OF AIDING A PARTICULAR GROUP OF FIRMS IN SEVERE FINANCIAL DIFFICULTY (HE CITED JUTE PRODUCERS IN THE NORTHEAST).

4. SIMONSEN CONCEDED THAT, UNLIKE DECREE LAW 1426, THE FINANCIAL REGULATIONS (CENTRAL BANK RESOLUTIONS 352 AND 353) HAD GENERAL APPLICABILITY BUT SAID IT WOULD TAKE THE CENTRAL BANK AND CACEX TWO TO THREE MONTHS TO WORK OUT THE DETAILS IN TERMS OF PRODUCTS AND INCREMENTAL LEVELS OF EXPORT. THESE BENEFITS WOULD BE SMALL AT BEST. WITH RESPECT TO THE MINISTER OF FINANCE ORDINANCE 471, SIMONSEN CLAIMED THE EFFECTS WOULD BE MINIMAL, THE ONLY ENTIRELY NEW ELEMENT BEING THE INCLUSION OF INSURANCE IN THE BASE FOR THE CALCULATION OF THE CREDITS.

5. THE STRONG THRUST OF SIMONSEN'S COMMENTS WAS THAT THE EFFORTS OF THE NEW MEASURES WERE ENTIRELY PROSPECTIVE
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IN THAT (A) NONE OF THEM HAD YET BEEN CARRIED OUT; (B) IT WOULD TAKE SOME TIME FOR ICM PROTOCOLS TO BE NEGOTIATED WITH THE STATES AND ELIGIBLE PRODUCTS TO BE CHOSEN; (C) SIMILARLY, THE IMPROVED FINANCING FOR INCREASED EXPORTS (RESOLUTION 353) WOULD NOT BE IN PLACE FOR SOME TIME; (D) ALTHOUGH NO FIRM COMMITMENT COULD BE GIVEN BECAUSE HE "MIGHT DROP DEAD OR BE REPLACED" HE DID NOT HIMSELF CONTEMPLATE EXTENDING THE

NEW BENEFITS TO SHOES, HANDBAGS OR CASTOR OIL; (E) BRAZILIAN UNDERSTANDING WAS THAT THE RATE OF COUNTERVAILING DUTY HAD ALWAYS BEEN CALCULATED ON THE BASIS OF THE ACTUAL NOT A THEORETICAL AND FUTURE HYPOTHETICAL BENEFIT. THE GIST WAS THAT TREASURY HAD NOT BASIS NOW FOR LEVYING ADDITIONAL COUNTERVAILING DUTIES ON SHOES, HANDBAGS AND CASTOR OIL AND MIGHT WELL HAVE NONE IN THE FUTURE. SHOULD THESE PRODUCTS EVENTUALLY BE INCLUDED IN THE NEW BENEFIT REGIME, SIMONSEN EXPECTED THAT AT THAT TIME TREASURY WOULD RAISE THE COUNTERVAILING DUTY LEVEL CORRESPONDINGLY.

6. DORNELLES SAID THE BRAZILIAN GOVERNMENT'S ATTORNEY IN WASHINGTON, HEMMENDINGER, HAD JUST REPORTED THAT TREASURY WAS PLANNING A DECISION ON HANDBAGS WITHIN 48 TO 72 HOURS AND WAS CONTEMPLATING A COUNTERVAILING DUTY RATE OF 17 PERCENT (AS OPPOSED TO THE 11 PERCENT IT HAD BEEN CONSIDERING) ON THE BASIS OF THE PRESUMED USE OF THE ICM CREDITS. DORNELLES EXPRESSED HIS CONCERN OVER SUCH A HIGH RATE OF DUTY. THE AMBASSADOR RESPONDED THAT THE EMBASSY WOULD OF COURSE PROMPTLY REPORT THE RESULTS OF THE MEETING, SO THAT THESE COULD BE TAKEN INTO ACCOUNT IN TREASURY'S FINAL DETERMINATION.

7. IN THE COURSE OF THE DISCUSSION, THE AMBASSADOR CALLED ATTENTION TO THE FIFTH (UNNUMBERED) PARAGRAPH IN SECRETARY SIMON'S LETTER, EXPRESSING CONCERN OVER THE POSSIBILITY OF ESCALATING DEMANDS FOR COUNTERVAILING DUTY RELIEF BY A GROWING NUMBER OF U.S. INDUSTRIES AND SUGGESTING THAT THE NEW BENEFITS NOT BE EXTENDED TO EXPORTS TO THE U.S. IN HIS SOMEWHAT SHARP RESPONSE, SIMONSEN IN ESSENCE SAID
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HE UNDERSTOOD THE PRESSURES ON THE ADMINISTRATION BUT IT SHOULD BE RECOGNIZED THAT HE FACED SERIOUS POLITICAL PROBLEMS AS WELL. PRESSURES WERE CONSTANTLY INCREASING ON HIM TO USE HIS AUTHORITY UNDER THE TRADE RETALIATION DECREE TO PROTECT BRAZILIAN INTERESTS. ASKED WHY BRAZILIAN EXPORTERS WOULD INSIST ON CLAIMING BENEFITS WHICH WOULD BE NULLIFIED BY INCREASED U.S. DUTIES, SIMONSEN WRYLY SAID A PRINCIPLE WAS INVOLVED FOR BRAZIL; HE WAS CONSCIOUS OF THE FACT THAT BRAZIL IN EFFECT WAS SUBSIDIZING THE U.S. TREASURY. IN THE BRAZILIAN VIEW, HOWEVER, BRAZILIAN INCENTIVES WERE WELL WITHIN THE FRAMEWORK OF INTERNATIONALLY ACCEPTED PRACTICES, AND IT WAS THE U.S. WHICH, THROUGH THE GRANDFATHER CLUSE, FAILED TO ACCEPT THE PRINCIPLES AND PRACTICES OF THE GATT. HIS COMMENTS ON SECRETARY

SIMON'S REQUEST FOR NON-APPLICATION OF THE NEW MEASURES
TO EXPORTS TO THE U.S. MADE CLEAR THAT HE CONSIDERED
IT IMPOSSIBLE TO MEET THE REQUEST.

7. SIMONSEN PROMISED AN EARLY WRITTEN REPLY TO SECRETARY
SIMON'S LETTER AND ASKED DORNELLES TO PREPARE A REPLY
WITHIN 24 HOURS.
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